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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LES FIELDS/C.C.H.I. INSURANCE
SERVICES, A California corporation,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. CV-15-02411 WHA

JOINT STATUS REPORT and ~~PROPOSED~~
ORDER MAINTAINING STAY UNTIL
~~FEBRUARY~~ 10. 2017
March

This Court has stayed this action pending the resolution of an associated Tax Court case which has litigated the same issues. The Court has maintained the stay, originally entered on January 25, 2016, three times after receiving joint status reports. The most recent Order maintaining the stay was entered after the parties represented that tax computations were due in the Tax Court on December 5, 2016, which were necessary to resolve this district court tax refund suit. The Tax Court has extended the date to submit the computations to February 21, 2017.

One issue in this case is whether Plaintiff's corporate officer, Les Fields, was an employee of Plaintiff during the periods at issue. That issue has been resolved, with the parties agreeing that Les Fields was an employee of Plaintiff for employment tax purposes. Because Plaintiff treated Fields as an independent contractor, however, Plaintiff did not make deposits of employment taxes. The Internal

Revenue Service assessed a penalty under Section 6656 with respect to the Plaintiff's failure to make deposits of employment taxes during the periods at issue. The penalty was not at issue in the Tax Court case. The Tax Court case was limited to the corporation's income tax liabilities, including the amount of wage expenses the corporation could claim with respect to the years at issue. The Section 6656 penalties therefore remain at issue in the District Court Case.

The parties anticipate that computations of Plaintiff's employment tax liabilities reflecting the agreed wage amounts, including penalty amounts, will be provided to Plaintiff's counsel during the week of January 23, 2017. The parties require a few weeks after the computations are presented in order to determine if they can negotiate a resolution of the penalties. Accordingly, the parties request a further extension of the stay to determine whether to dismiss this case or proceed to litigation in district court with the remaining issues in this case. Accordingly, the parties request that this Court maintain the stay through March 10, 2017. The parties will submit a joint status report on March 8, 2017, by noon.

Respectfully submitted,

BRIAN J. STRETCH
United States Attorney

_____/S/_____
CYNTHIA STIER
Assistant U.S. Attorney
Tax Division

_____/s/_____
BERNARD KENNEALLY
Counsel for Plaintiff, Les Fields

ORDER MAINTAINING STAY

For the reasons set forth in the Joint Status Report filed by the parties, the stay is maintained until March 10, 2017. The parties shall file a joint status report by March 8, 2017, by noon.

SO ORDERED this 11 day of January, 2017.


WILLIAM M. ALSOP
United States District Judge